

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

MYKHAILO MYKOLAIOV KRYSANOV,

Petitioner,

v.

Case No. 24-cv-0904-bhl

SCOTT SMITH,

Respondent.

**ORDER ADOPTING REPORT AND RECOMMENDATION AND DISMISSING
HABEAS PETITION**

On July 18, 2024, Mykhailo Mykolaiov Krysanov, an immigrant detainee currently held at Dodge County Detention Facility, filed a petition for writ of habeas corpus under 28 U.S.C. § 2241. (ECF No. 1.) Krysanov alleges that the facility is ignoring his urgent medical needs, including failing to treat his methicillin-resistant *Staphylococcus aureus* (MRSA) infection. (*Id.* at 2.) He asks the Court to release him from custody while awaiting deportation proceedings so that he can address his health issues. (*Id.* at 3.)

On August 30, 2024, Magistrate Judge Nancy Joseph screened Krysanov's petition. (ECF No. 4.) The magistrate judge concluded that "a writ of habeas corpus is not the proper vehicle to address Krysanov's claim" because he challenged only "the conditions, rather than the fact, of his confinement. (*Id.* at 2 (citing *Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973); *Glaus v. Anderson*, 408 F.3d 382, 386 (7th Cir. 2005).) Judge Joseph identified 42 U.S.C. § 1983 as the proper vehicle for Krysanov to challenge his conditions of confinement but further determined that converting the present petition to a Section 1983 civil rights complaint would be improper because Krysanov does not sue the proper defendant for his Section 1983 claim and does not request relief that is available under Section 1983. (*Id.* at 2–3 (citing *Glaus*, 408 F.3d at 389–90, *Bunn v. Conley*, 309 F.3d 1002, 1007 (7th Cir. 2002); *Moore v. Pemberton*, 110 F.3d 22, 23 (7th Cir. 1997).) Accordingly, Judge Joseph issued a Report recommending that Krysanov's petition be dismissed without prejudice and this case dismissed. (*Id.* at 4.)

Pursuant to General Local Rule 72(c), 28 U.S.C. § 636(b)(1)(B) and (C), and Federal Rules of Civil Procedure 6(d) and 72(b)(2), Krysanov had until September 13, 2024 to file and serve written objections to Judge Joseph's Report and Recommendation. Once objections are made, this Court must "make a de novo determination of those portions of the report or specified proposed findings or recommendations *to which objection is made.*" 28 U.S.C. § 636(b)(1) (emphasis added). Krysanov has not filed an objection to any portion of the report, either before or after the statutory deadline.

After consideration of Judge Joseph's report, and the record as a whole, the Court adopts the Report and Recommendation of the magistrate judge. The record supports Judge Joseph's conclusion that a writ of habeas corpus is not the correct vehicle to adjudicate Krysanov's claim and her recommendation that his petition be dismissed without prejudice.

IT IS HEREBY ORDERED that Magistrate Judge Nancy Joseph's Report and Recommendation, ECF No. 4, is **ADOPTED**.

IT IS FURTHER ORDERED that Krysanov's Petition for Writ of Habeas Corpus under 28 U.S.C. § 2241, ECF No. 1, is **DENIED** and this case is **dismissed without prejudice**.

IT IS FURTHER ORDERED that a certificate of appealability **SHALL NOT ISSUE**. The Court does not find that reasonable jurists could debate that the petitioner has made a substantial showing of the denial of a constitutional right and that the petition should have been resolved in a different manner. *See Slack v. McDaniel*, 529 U.S. 473, 484 (2000). The Clerk of Court is directed to enter judgment accordingly.

Dated at Milwaukee, Wisconsin on September 18, 2024.

s/ Brett H. Ludwig
BRETT H. LUDWIG
United States District Judge